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Letter dated 29 August 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 July 2002 (S/2002/820).

The Counter-Terrorism Committee has received the attached supplementary report from Algeria, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 15 August 2002 from the Permanent Representative of Algeria to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: French]

On instructions from my Government, and further to your letter dated 7 June 2002, I have the honour to transmit to you herewith a supplementary report containing replies to the questions put by the Counter-Terrorism Committee concerning the report submitted by Algeria on 24 December 2001 pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

The Algerian Government is prepared to provide the Committee with any additional information that the Committee deems necessary or may request.

(*Signed*) Abdallah **Baali**
Ambassador
Permanent Representative

Enclosure

[Original: French]

Report on the implementation of Security Council resolution 1373 (2001)

Replies to questions from the Counter-Terrorism Committee*

Pursuant to communication No. 40/2002/MS/OC.92 dated 7 June 2002 from the Chairman of the Committee and concerning the observations and questions of the Security Council Counter-Terrorism Committee, the replies of the Algerian Government are transmitted herewith.

Subparagraph 1 (a)

Legal measures taken since the adoption of Security Council resolution 1373 (2001)

Algeria is one of the few countries to have established a legal framework with a view to preventing and combating terrorism since the emergence of that phenomenon. The country's legislative and regulatory framework has been gradually improved and adapted to respond more effectively to developments in terrorist activities and the transnational nature of those activities. Existing legislation now covers all activities related to terrorism and meets the needs of international cooperation.

Measures taken to eliminate the financing of terrorist activities by foreigners holding funds in Algerian financial institutions

The Code of Criminal Procedure and the Penal Code govern the conditions of confiscation and seizure in cases involving terrorism and support for terrorist activities and set out protective measures.

The Criminal Code criminalizes the financing of terrorist activities, which is punishable by a term of 5 to 10 years' imprisonment and a fine of 100,000 to 500,000 dinars for any person convicted of financing terrorist activities. This penalty is applicable to any Algerian national or foreigner, without discrimination, found guilty of such acts.

Funds on deposit and other assets may be kept in Algerian banks by non-residents as foreign investment in Algeria, subject to approval by the Bank of Algeria. Ordinance No. 96-22 of 9 July 1996, concerning the punishment of offences under the legislation and regulations governing exchange, stipulates a term of imprisonment and a fine as punishment for any failure to observe the relevant legal procedures.

* Annexes are on file with the Secretariat and available for consultation.

Subparagraph 1 (c)

Describe the legal provisions that authorize the freezing of funds in connection with terrorist activities and establishment of proof.

When there is evidence of support by these bodies for terrorist activities, measures for the seizure, freezing or confiscation of the assets are ordered by the courts.

These measures are governed by provisions of the Penal Code relating to additional penalties and security measures, particularly articles 6, 9, 15, 15 bis, 16, 25 and 87 bis.

Does the law allow the freezing of financial assets of Algerian entities that support terrorism outside Algeria?

Algeria has just established a unit within the Ministry of Finance for the processing of financial and money-laundering information. The unit will handle reports of suspicious activity, ask public and private entities to provide any documents or information it may need, and order, as necessary, the freezing of assets of confirmed suspicious origin. Judicial proceedings in good and due form may then follow.

Various provisions of the Penal Code, the Code of Criminal Procedure and the laws setting out measures to eliminate and combat terrorism spell out in detail the conditions under which freezing, seizure and other protective measures can be taken to halt the financing of terrorism.

Subparagraph 1 (d)

Is there any law regulating alternative money transfer agencies?

The regulations governing the operations of foreign banks and their representatives in Algeria are the same as those that apply to Algerian banks. The Bank of Algeria exercises its monitoring prerogatives and applies the criteria specified in the currency and credit law. Currency regulations and controls and the conditions for transferring money out of or into Algeria are applied in the same way under Ordinance No. 96-22 of 9 July 1996, on the punishment of offences under the legislation governing exchange and capital movements, under the authority of the Bank of Algeria.

Only certified banks and approved financial institutions designated as "authorized agents" under the banking regulations are authorized to make transfers, in strict compliance with the exchange control regulations. In certain cases, the Bank of Algeria may take protective measures.

Describe the legal prohibitions on the supply of economic resources to terrorist groups inside or outside Algeria.

The Penal Code punishes any act or action that encourages or is likely to encourage, aid, finance or facilitate the activities of terrorist groups and organizations. Ordinance No. 95-11 of 25 February 1995 criminalizes the financing of terrorism and punishes anyone found guilty of this offence with 5 to 10 years' imprisonment. The Executive Decree establishes a financial information processing

unit to combat the financing of terrorism and money-laundering; this unit has a broader mandate and operates in cooperation with all bodies working to eliminate the financing of terrorism and with the relevant judicial authorities.

In the case of resources from abroad, the Bank of Algeria has responsibility for determining their origin, destination and use; such funds may only be used for investment purposes, in accordance with the law on currency and credit. Any other extralegal use is prohibited and punishable by law. Under exchange control regulations, any movement of funds must be offset by a form of economic compensation.

The relevant provisions of the Penal Code governing the seizure and confiscation of property are supplemented by Ordinance No. 95-11 of 25 February 1995, which specifies the penalties imposable on anyone presumed guilty of using the proceeds of solicitations for financing for terrorist activities.

Are legal persons, lawyers and notaries required to report suspicious transactions to the relevant authorities?

The activities of lawyers and notaries are governed by specific codes which prohibit these professionals from engaging in non-bank or quasi-financial transactions that may be allowed in other countries. Their respective professional associations monitor their activities closely.

Article 181 of the Penal Code lays down a general obligation stipulating that anyone having knowledge of crimes must report them to the proper authorities or face criminal penalties in the form of one to five years' imprisonment and a fine of 1,000 to 10,600 dinars.

The concealment of funds derived from terrorism, the financing of terrorism and the laundering of money tied to criminal activity are reportable offences; failure to report them will result in criminal prosecution of individuals belonging to this profession.

Subparagraph 2 (a)

How does Algeria regulate the sale, possession and disposition of non-prohibited weapons in its territory?

Ordinance No. 97-06 of 21 January 1997, concerning military equipment, weapons and ammunition, strictly prohibits the manufacture, import, export, acquisition, possession, bearing and transport of weapons and ammunition without proper authorization from the competent authorities. This Ordinance sets out criminal penalties that vary in accordance with the nature of the banned weapons and the seriousness of the acts committed.

How does Algeria prevent the recruitment of persons to terrorist groups in its territory?

Article 87 bis, paragraph 3, of the Penal Code prohibits recruitment for subversive or terrorist ends. Thus the creation of associations or groups having as their purpose the carrying out of terrorist activities and membership or participation in such groups are severely punished under the Criminal code.

Article 87 bis, paragraph 7, sets criminal incarceration as the penalty for membership or participation in such groups.

The same provision stipulates that any person found guilty of handling or using explosives for subversive or terrorist purposes shall be liable to capital punishment.

Order No. 95-11 of 25 February 1995 strictly prohibits the sale, purchase, distribution, import or manufacture, repair or utilization of banned weapons and of ammunition and explosives without authorization from the competent authorities.

The acts described above are assimilated to the terrorist acts covered by the Penal Code.

Subparagraph 2 (b)

Explain the steps taken by Algeria to provide early warning to States.

Algeria has made international cooperation one of the underpinnings of its effort to combat terrorism. It has consistently drawn the attention of its partners to the importance of establishing operational mechanisms to combat this scourge. It has frequently taken the initiative of informing and warning certain countries in whose territory terrorists have been active.

Algeria is also an active member of Interpol, whose Algiers bureau works directly with the judiciary to coordinate cooperation with other member States in combating crime and terrorism.

Subparagraph 2 (c)

Provide details about the provisions of Ordinance No. 66-211 of 21 July 1966, concerning financing and support for persons having committed terrorist acts.

Ordinance No. 66-211 of 21 July 1966, on the status of foreigners in Algeria, punishes any foreigner who enters Algerian territory clandestinely. Persons who directly or indirectly facilitate the irregular stay of a foreigner are liable to a term of imprisonment. This penalty extends also to the employers and landlords of persons who have entered Algeria clandestinely. Any violation of the terms of stay and residence is punishable by law.

The Code of Criminal Procedure and the Penal Code criminalize the financing of terrorist activities and provide for terms of imprisonment for any person found guilty of aiding terrorist activities, as explained in the national report (S/2002/1280) and in the replies to this questionnaire.

Subparagraph 2 (g)

Provide additional information on how border controls prevent the movement of terrorists into Algeria.

The border police work closely with all Algerian security services under the authority of the judiciary and cooperate with the police on a bilateral basis or through Interpol. The police services have a collection of files on persons who are wanted under various national or international arrest warrants issued by the

competent judicial authorities for the crimes of terrorism and other crimes and offences. Any such person entering Algerian territory shall be arrested and brought before the competent judicial authorities and expelled. Illegal entry is dealt with in the same manner.

Are there any mechanisms in Algeria for inter-agency cooperation between the authorities responsible for narcotics, financial tracking and border controls?

The security services work closely with all the parties involved, at both higher and lower hierarchical levels, to eliminate fraud, drug-trafficking, major organized crime and terrorist activities. In addition to legislative and regulatory measures, Algeria is party to international conventions in these areas, and the security services carry out their obligations under these instruments effectively and with determination. Algeria has just set up a financial information processing unit that involves the Ministry of Foreign Affairs, the Ministry of Finance and the Ministry of Justice, as well as the security services. The mandate of this body is to eliminate the financing of terrorism and money-laundering.

Subparagraph 3 (d)

Ratification of United Nations conventions relating to terrorism

Algeria has ratified all United Nations instruments aimed at preventing and combating terrorism. The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf is the only instrument it has not yet ratified; that instrument is currently under review, and the necessary steps will be taken once this review is completed.

Incorporation of international instruments into national legislation

Algeria's national legislative and regulatory system is gradually incorporating all instruments relating to counter-terrorism. The provisions of United Nations conventions are incorporated in national legislation automatically once the ratified international instrument becomes a national law having immediate effect. The Algerian Constitution confers on international treaties and conventions legal status higher to that of national law.

Have the offences set forth in the relevant international conventions been included as extraditable offences in the extradition treaties to which Algeria is party?

The Code of Criminal Procedure (arts. 694 *et seq.*) sets out the conditions of extradition, extradition procedures and the effects of extradition. International agreements and protocols and bilateral conventions on judicial cooperation and extradition signed or ratified by Algeria which are an integral part of national legislation set out the relevant offences and may result in extradition. National legislation covers every type of crime and offence (terrorist crime, organized crime and so forth).

Algerian extradition legislation

The Code of Criminal Procedure is the basic text for questions relating to extradition. Articles 694, 695, 696, 698 *et seq.* of the Code set out the terms

associated with extradition requests and the ways in which such requests are to be expedited. These provisions set out the terms and the effects of extradition.

To give effect to a request for extradition, Algerian law requires evidence of the offence and of the conviction of the person in respect of whom the request is made. Actions that can justify extradition must be punishable offences or misdemeanours under the law of the requesting State. Thus the person being extradited must have been convicted of a crime by the courts of the requesting country, which must submit a reasoned request justifying the extradition.

Cooperation in the area of extradition

Algeria has always favoured the strengthening of international cooperation in matters relating to the extradition of individuals found guilty of terrorist acts. The adoption of bilateral agreements on mutual judicial assistance and extradition is the most appropriate way of ensuring meaningful cooperation that is both effective and focused. Algeria has submitted a number of draft agreements and is in the process of negotiating with all its partners with a view to concluding and ratifying these agreements and implementing them as quickly as possible.

The Algerian Government attaches great importance to the conclusion of negotiations and intends to take the necessary steps to this end.

Subparagraph 3 (g)

Is a claim of political motivation one of the grounds for refusing the extradition of alleged terrorists?

Algeria has always opposed the use of political motivation as one of the grounds for denying a request for the extradition of a presumed terrorist. No political motivation can be invoked to justify a terrorist act or activity. Algeria welcomed the adoption by the Security Council of resolution 1373 (2001) and has expressed its satisfaction with regard to the paragraph which rejects any political motivation for terrorist acts.

Algeria is also opposed to the granting of political asylum to terrorists, who often cite political considerations as grounds for having documents they need delivered to their homes in the host country.

List of countries with which Algeria has concluded extradition agreements

Algeria has ratified, signed, initialled and negotiated legal, judicial and extradition agreements with the following countries:

- 15 agreements have been ratified (with Morocco, Tunisia, Mauritania, the Libyan Arab Jamahiriya, Egypt, the Syrian Arab Republic, France, Belgium, Bulgaria, Poland, Hungary, Romania, Mali, the Niger and Turkey);
- 5 agreements have been signed (with the United Arab Emirates, Jordan, Cuba and South Africa);
- 1 agreement has been initialled, with Yemen;

- In the context of the implementation of Security Council resolution 1373 (2001), draft agreements have been submitted to the Governments of the United States of America, Germany, Albania, Bosnia and Herzegovina, the Islamic Republic of Iran, Georgia, Azerbaijan, Malaysia, the United Kingdom, Thailand, the Netherlands, Denmark and Ireland;
- Draft agreements are being negotiated with Pakistan, the Sudan, the Russian Federation, Nigeria, Canada, Qatar, Italy and Argentina;
- These agreements contain provisions setting out the conditions, procedures and effects of extradition.

In addition, Algeria has sent a number of countries 96 international arrest warrants and five requests for extradition, which have so far gone unanswered.

Paragraph 4

Connections between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear and chemical materials

Pursuant to paragraph 4 of Security Council resolution 1373 (2001) and the recommendations of international financial institutions, Algeria has established, by executive decree, a financial information processing unit made up of all bodies with competence in the matter and having full powers with a view to suppressing the financing of terrorism and money-laundering. Trafficking in weapons and chemical, toxic or nuclear materials is severely punished by law.

Other matters:

Please provide an organizational chart of the police, immigration control, customs and financial supervision authorities.

The organizational chart of the police, immigration control, customs and financial supervision authorities reflects the concerns and objectives of each sector. It is a conventional diagram indicating administrative structure and the needs of each operational sector. In the area of counter-terrorism, inter-agency coordination has been established to enhance the effectiveness of operations and activities. The establishment of a financial information processing unit is one reflection of this concern.